



## POLICY AND REGULATORY STEWARDSHIP

**Tax policy report:** **Draft Cabinet paper – Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021**

<b>Date:</b>	24 June 2021	<b>Priority:</b>	Medium
<b>Security level:</b>	In Confidence	<b>Report number:</b>	IR2021/283

### Action sought

	Action sought	Deadline
Minister of Revenue	<p><b>Approve</b> the attached Cabinet paper for lodgement</p> <p><b>Refer</b> a copy of this report to the Minister of Foreign Affairs for her information</p>	10am, Thursday 1 July 2021

### Contact for telephone discussion (if required)

Name	Position	Telephone
Carolyn Elliott	Policy Lead	s 9(2)(a)
Emma Hamilton	Senior Policy Advisor	
Richard McLaughlan	Policy Advisor	

24 June 2021

Minister of Revenue

## **Draft Cabinet paper - Child Support (Reciprocal Agreement with Hague Convention Countries) Order 2021**

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### **Purpose**

1. This report asks you to approve for lodgement the attached Cabinet paper and accompanying Order in Council with the Cabinet Office by 10am Thursday 1 July 2021 for consideration at the Cabinet Legislation Committee meeting on Thursday 8 July 2021.
2. The Child Support (Reciprocal Agreement with Hague Countries) Order 2021 is needed to recognise and give effect to the Hague Convention on the International Recovery of Child Support and other forms of Family Maintenance (the Convention) under New Zealand law. Once this has been completed New Zealand will be in a position to ratify the Convention. The Order will modify the application of the Child Support Act 1991 for cases administered under the Convention relating to child support and domestic maintenance.
3. This Order in Council is a domestic step towards entry into force, which is intended for 1 November 2021.

### **Background**

4. The Convention is a multilateral treaty that provides for the recovery of child support and other forms of maintenance (such as spousal support) when the liable person resides in a different country from that in which the maintenance payment is raised.
5. New Zealand signed the Convention on 26 November 2019. The Social Services and Community Committee completed the Parliamentary treaty examination on 24 March 2020 and reported back to the House recommending ratification. New Zealand is now taking the necessary steps to ratify the Convention and to bring it into force for New Zealand.
6. The Convention is intended to be in force in New Zealand on 1 November 2021 when child support transfers into Inland Revenue's new systems as part of Business Transformation.

### **Reservations and declarations**

7. Any permitted reservations or declarations under the Convention must be made at the time of ratification. New Zealand's proposed reservations and declarations were approved by Cabinet [CAB-19 MIN-0447 refers] and were also considered as part of the Parliamentary Treaty Examination process.
8. Officials originally considered that New Zealand should make a declaration that New Zealand will use the Article 24 procedure rather than the Article 23 procedure on receipt of applications for recognition and enforcement. This is reflected in the reservations and declarations, as considered by Cabinet and in the Parliamentary Treaty Examination process.
9. However, as part of more detailed work completed in preparation for implementation, it has been identified and agreed that the standard Article 23 process would be preferable to the alternative Article 24 process [IR2021-186 refers]. This is because it

would enable Inland Revenue to process applications more expeditiously and aligns with how it already processes other domestic and international applications. Using the procedure set out in Article 23 does not require New Zealand to make a declaration.

10. We will provide your office with suggested talking points for taking the paper through the Cabinet Legislation Committee. Specifically, these will identify why there has been a change to New Zealand's declarations in relation to the Convention.

### **Next steps**

11. Treaty-making with respect to Tokelau is carried out by the New Zealand Government in consultation with the Government of Tokelau. In accordance with the Ministry of Foreign Affairs and Trade's recommendations, New Zealand is consulting with Tokelau on whether the Convention should also extend to Tokelau. Tokelau is expected to respond to the consultation documents provided by 30 June 2021. If Tokelau responds in the affirmative by that date, officials will update the requisite documents.
12. A draft Cabinet paper and associated Order in Council are attached for you to take to the Cabinet Legislation Committee on Thursday 8 July 2021. The certificate and signature copies of the Order will be sent direct to Cabinet office by the Parliamentary Counsel Office, for associating with the Cabinet paper.
13. Officials recommend you sign the attached Order in Council "goatskin" cover sheet, for submission to Cabinet office with the Cabinet paper.
14. Officials recommend you refer a copy of this report to the Minister of Foreign Affairs for her information.
15. Following agreement to the Order in Council, New Zealand's instrument of ratification and list of confirmed declarations and reservations will be deposited with the Convention depositary. The Convention will enter into force for New Zealand on the first day of the month following the expiration of three months after the deposit of its instrument of ratification. Therefore, New Zealand must deposit our instrument of ratification by 31 July 2021 in order for the entry into force date to align with child support moving to Inland Revenue's new system START.
16. Normal practice is to release a press statement at the time the Convention enters into force rather than on the making of the Order in Council. We will discuss appropriate publicity with your office.
17. Officials consider that the attached Cabinet paper should be proactively released within 30 working days of Cabinet making final decisions, subject to minor redactions.

## Recommended action

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We recommend that you:

18. **Approve** for lodgement the attached Cabinet paper and accompanying Order in Council with the Cabinet Office by 10am Thursday 1 July 2021 for consideration at the Cabinet Legislation Committee meeting on Thursday 8 July 2021

Approved

19. **Note** that speaking notes will be provided to your office ahead of the Cabinet Legislation Committee meeting on Thursday 8 July

Noted

20. **Sign and refer** the attached Order in Council "goatskin" cover sheet, for submission to Cabinet Office with the Cabinet paper

Signed and referred


21. **Refer** a copy of this report and the attached Cabinet paper to the Minister of Foreign Affairs for her information

Referred

22. **Agree** to the release of the attached Cabinet paper, associated minutes, and key advice papers, within 30 days of Cabinet making final decisions, subject to minor redactions.

Agreed/Not agreed

s 9(2)(a)



**Carolyn Elliott**

Policy Lead

Policy and Regulatory Stewardship

**Hon David Parker**

Minister of Revenue

/ /2021